

Office of the Standing Chapter 13 Trustee  
125 E John Carpenter Freeway Suite 1100 11th Floor  
Irving, TX 75062  
Telephone: (214) 855-9200 Facsimile: (214) 965-0758

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**IN RE:**

**ERVIN FRANK LAYER (xxx-xx-3644)**

**9814 FAIRCREST DR  
DALLAS, TX 75238**

**Debtor**

**Case No. 13-30466-BJH-13  
Hearing Date: 11/3/2016 8:30 AM**

**CHAPTER 13**

**ATTENTION THE BANK OF NEW YORK MELLON, Court Claim No. 5**

**NOTICE OF AMOUNT DEEMED NECESSARY TO CURE MORTGAGE ARREARS**  
**(per Local Bankruptcy Rule 3002-2 regarding Trustee's Mid Case Audit of Plan and Mortgage)**

**SCHEDULING ORDER**

A Scheduling Order will be served by the Bankruptcy Clerk which will establish specific, important, and mandatory dates and deadlines concerning this Notice. If there is any conflict between the Scheduling Order and this Notice, the Scheduling Order will control.

**RESPONSE REQUIRED**

**ON OR BEFORE 60 DAYS FROM THE SERVICE OF THIS NOTICE OF AMOUNT DEEMED NECESSARY TO CURE MORTGAGE ARREARS, IF THE CREDITOR/HOLDER NAMED ABOVE DISPUTES THE INFORMATION IN THE NOTICE, THE CREDITOR/HOLDER MUST FILE WITH THE CLERK OF THE COURT AT U.S. BANKRUPTCY COURT, 1100 COMMERCE ST 14TH FLOOR, DALLAS, TEXAS, 75242, A WRITTEN RESPONSE AND SERVE IT ON THE DEBTOR, DEBTOR'S ATTORNEY, AND THE CHAPTER 13 TRUSTEE, PURSUANT TO LOCAL BANKRUPTCY RULE 3002-2(c), INDICATING WHETHER THE CREDITOR/HOLDER DISPUTES THE INFORMATION IN THIS NOTICE.**

**THE RESPONSE MUST ALSO ITEMIZE CURE AMOUNTS OR POST-PETITION ARREARS, IF ANY, THAT THE CREDITOR/HOLDER CONTENDS EXIST AS OF THE DATE OF THE RESPONSE.**

**FAILURE BY CREDITOR/HOLDER NAMED ABOVE TO RESPOND TIMELY TO THIS NOTICE MAY RESULT IN THE ENTRY OF A DEFAULT ORDER BY THE COURT DEEMING THE MORTGAGE TO BE CURRENT, OR DELINQUENT IN THE AMOUNT(S) SET FORTH IN THIS NOTICE.**

**THE ENTRY OF SUCH AN ORDER MAY PRECLUDE THE CREDITOR/HOLDER OF THE CLAIM FROM ASSERTING OTHER CURE AMOUNTS OR POST-PETITION ARREARS THAT ALLEGEDLY ACCRUED BEFORE THE DATE OF THIS NOTICE IN ANY CONTESTED MATTER OR ADVERSARY PROCEEDING IN THE CASE OR IN ANY OTHER MATTER, MANNER, OR FORUM AFTER DISCHARGE IN THIS CASE, UNLESS THE COURT DETERMINES, AFTER NOTICE AND HEARING, THAT THE FAILURE WAS SUBSTANTIALLY JUSTIFIED OR IS HARMLESS.**

**NEGATIVE NOTICE**  
**(per Local Bankruptcy Rule 9007-1(c))**

**NO HEARING WILL BE CONDUCTED ON THIS "NOTICE OF AMOUNT DEEMED NECESSARY TO CURE MORTGAGE ARREARAGE" UNLESS A WRITTEN RESPONSE BY THE CREDITOR/HOLDER NAMED ABOVE IS FILED BEFORE THE CLOSE OF BUSINESS AT LEAST 60 DAYS FROM THE DATE OF SERVICE HEREOF, OR UNLESS A WRITTEN RESPONSE BY THE DEBTOR IS FILED BEFORE THE CLOSE OF BUSINESS AT LEAST 90 DAYS FROM THE DATE OF SERVICE HEREOF, WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT U.S. BANKRUPTCY COURT, 1100 COMMERCE ST 14TH FLOOR, DALLAS, TEXAS, 75242.**

**ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK, AND A COPY SHALL BE SERVED UPON THE DEBTOR, COUNSEL FOR THE DEBTOR, IF ANY, THE CREDITOR/HOLDER, COUNSEL FOR THE CREDITOR/HOLDER, IF ANY, AND THE CHAPTER 13 TRUSTEE.**

**IF A RESPONSE IS TIMELY FILED BY CREDITOR/HOLDER OR THE DEBTOR, A PRE-HEARING CONFERENCE WILL BE HELD AT 8:30 AM ON 11/03/2016 AT THE OFFICE OF TOM POWERS, CHAPTER 13 TRUSTEE, 125 E JOHN CARPENTER FREEWAY STE 1100, IRVING, TEXAS 75062. ANY MATTERS UNRESOLVED AT THE TRUSTEE'S PRE-HEARING CONFERENCE WILL BE HEARD BY THE COURT AT 2:00 pm ON 11/03/2016.**

**IF NO RESPONSE IS TIMELY FILED, THE INFORMATION CONTAINED IN THIS NOTICE WILL BE DEEMED UNOPPOSED AND/OR UNDISPUTED, AND THE COURT WILL ISSUE AN ORDER BY DEFAULT, FINDING THE MORTGAGE TO BE CURRENT, OR DELINQUENT IN THE AMOUNT SET FORTH HEREIN, AS OF THE DATE OF THIS NOTICE.**

Pursuant to Local Bankruptcy Rule 3002-2(b), the Chapter 13 Trustee, Tom Powers, files this Notice of Amount Deemed Necessary to Cure Mortgage Arrears ("Notice").

**PLAN ARREARAGE**

To the Trustee's knowledge, the Debtor are current on their plan, or if not, the amount believed necessary to cure any default on the plan is \$839.50.

**PRE-PETITION MORTGAGE ARREARAGE**

The amount believed necessary to cure any pre-petition home mortgage arrearage claim(s) ("**cure amount**") is as follows

Name of Creditor: THE BANK OF NEW YORK MI

Claim Type: HOME MORTGAGE ARREARAGE

<u>Court Claim #</u>	<u>Trustee Claim#</u>	<u>Account Number</u>	<u>Claim Amount</u>	<u>Claim Allowed</u>	<u>Amount Paid</u>
5	2	349/B50013931N	\$3,858.51	\$3,858.51	<div>Principal + Interest</div> <div>\$2,637.96</div> <div>\$0.00</div>
					\$2,637.96

Total Amount Paid By Trustee:

**PRINCIPAL AMOUNT NECESSARY TO CURE PRE-PETITION MORTGAGE ARREARAGE CLAIM (TRUSTEE CLAIM #2) TO BE PAID BY THE TRUSTEE, IF ANY: \$1,220.55**

**ONGOING "CURRENT" MONTHLY MORTGAGE PAYMENTS**

Name of Creditor: THE BANK OF NEW YORK MI

Claim Type: HOME MORTGAGE REGULAR PAYMENT

<u>Court Claim #</u>	<u>Trustee Claim#</u>	<u>Account Number</u>	<u>Claim Amount</u>	<u>Claim Allowed</u>
5	14	349/B50013931N	\$52,258.91	\$52,258.91

Total Amount Paid By Trustee: - NONE

**THE ONGOING "CURRENT" MONTHLY MORTGAGE PAYMENTS ARE, ACCORDING TO THE PLAN, TO BE PAID DIRECT BY THE DEBTOR. THE TRUSTEE HAS NO KNOWLEDGE OF THE STATUS OF THOSE ONGOING PAYMENTS, OR ANY POST-PETITION ARREARS THEREON, EXCEPT AS NOTED ABOVE. HOWEVER, THE HOLDER OF THE CLAIM MUST ITEMIZE IN ITS RESPONSE ANY OTHER PRE-PETITION ARREARAGES OR ANY POST-PETITION ARREARS THAT THE HOLDER CONTENDS EXIST AS OF THE DATE OF THE RESPONSE; OTHERWISE THE COURT WILL ISSUE AN ORDER BY DEFAULT, FINDING THE MORTGAGE TO BE CURRENT AS OF THE DATE OF THIS NOTICE.**

Date: 07/12/2016

RESPECTFULLY SUBMITTED,

/s/ Thomas D. Powers

Thomas D. Powers, Trustee

State Bar No. 16218700

Office of the Standing Chapter 13 Trustee

125 E John Carpenter Freeway Suite 1100 11th Floor

Irving, TX 75062

Telephone: (214) 855-9200 Facsimile: (214) 965-0758

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that a true and correct copy of the foregoing was sent to all parties as listed below on July 12, 2016, either electronically or via U.S. First Class Mail.

Debtor: Ervin Frank Layer, 9814 Faircrest Dr, Dallas, Tx 75238  
Attorney: Allmand Law Firm Pc, 860 Airport Freeway Suite 401, Hurst, Tx 76054\*\*  
Creditor(s): Codilis And Stawiariski Pc, 650 N Sam Houston Parkway East, Suite 450, Houston, Tx 77060\*\*  
County Of Dallas, Co Linebarger Goggan Blair Et Al, 2777 N Stemmons Fwy Ste 1000, Dallas, Tx 75207\*\*  
Prober And Raphael A Law Corp, 20750 Ventura Boulevard, Suite 100, Woodland Hills, Ca 91364  
Richardson Isd, Perdue Brandon Fielder Et Al, 500 E Border St, Ste 640, Arlington, Tx 76010\*\*  
The Bank Of New York Mellon Fka The Bank Of New Yo, C/O Prober & Raphael, Po Box 4365, Woodland Hills, Ca 91365

\*\*Indicates party has elected to receive all notifications via electronic service and was not served a copy via United States First Class Mail.

**Date: 07/12/2016**

**RESPECTFULLY SUBMITTED,**

/s/ Thomas D. Powers  
Thomas D. Powers, Trustee  
State Bar No. 16218700  
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